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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,531	01/29/2004	Wayne E. Vick	45626/284122	5370

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/767,531	Applicant(s) VICK, WAYNE E.	
	Examiner James R. Brittain	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09072004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 introduces a third layer in line 1. However, claim 1 only has one layer. The second layer is introduced in claim 23. It is unclear in claim 24 should depend from claim 20 as stated or claim 24. If applicant meant for the claim to depend from claim 20, then it is unclear whether there must be a second layer or not since claim 1 does not require a second layer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 24-26 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bullock (US 6089802).

Bullock (figures 3-6) teaches a strap for restraining freight with a first layer having adhesive 30 coating the layer and on a side of the strap considered to be the outer surface and is inherently securable to a surface of a transportation device. The end of the strap is considered to be the patch that is a continuous portion of the first layer and formed during the process of

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manufacturing the first layer as indicated by applicant in claim 28. The patch, as defined, has an adhesive layer located on its entirety so as to meet the language of claim 25.

Claims 20 and 24-27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Blatt (US 4264251).

Blatt (figure 3) teaches a strap for restraining freight with a first layer of adhesive tape secured by adhesive to a second layer of adhesive tape at their ends. Since the joining of the two layers is by adhesive, claim 27 is anticipated. The second layer is considered a patch. Claim 20 only requires two layers of tape joined together and Blatt shows such structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullock (US 6089802) in view of Epstein (US 6478229).

Bullock (figures 3-6) teaches a strap for restraining freight with a first layer having adhesive 30 coating the layer and on a side of the strap considered to be the outer surface and is inherently securable to a surface of a transportation device. The difference is that the layer is not stated as being a nonwoven fabric. It would have been obvious to utilize a nonwoven fabric as a layer in the strap of Bullock in view of Epstein (figure 1) teaching that it is desirable to utilize a non-woven fabric 8 in the construction of a multi-layered bundling strap so as to provide it with greater strength. As to the elongation and creep characteristics of claim 23, these parameters are

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simply a matter of adjusting the strength of the strap and Epstein recognizes the desirability of controlling the mechanical properties of the strap. As to claim 29, Epstein teaches the use of a non-woven layer that is for reinforcement.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kreckel (US 5747131, figures 1, 9) teaches pertinent wrapping strap structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James R. Brittain
Primary Examiner
Art Unit 3677

JRB